

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 546

Citations Affected: IC 4-23-7.2; IC 14-8-2-77; IC 14-13-6-23; IC 14-15; IC 14-20-16; IC 14-22; IC 14-24-5-3.

Synopsis: Natural resources matters. Conference committee report for ESB 546. Establishes navigation rules for sailboats and nonmotorized boats. Removes the element of endangering others from the definition of "intoxicated" in the boating law. Amends the evidence requirements for blood alcohol content. Transfers the responsibility for the governors' portraits collection and governors' portraits fund from the historical bureau to the division of state museums and historic sites. Adds wildlife to the definition of "natural resources" for purposes of lake preservation laws. Removes the authority of a person with a federal permit to take or possess a migratory bird or the nest, eggs, or increase of a migratory bird during the closed season. Adds mourning doves to the list of game birds that require a habitat restoration stamp to hunt. Establishes nonresident youth hunting and trapping licenses. Establishes a voluntary resident senior license to fish. Allows certain transfers for money dedicated for fish and game purposes to be transferred to the nongame fund. Provides that fumigation with methyl bromide of nursery seedling beds is an official pest control treatment. Repeals and relocates governors' portraits laws. **(This conference committee report does the following: (1) Removes provision that added wildlife to the definition of "natural resources" for purposes of lake preservation laws; (2) corrects a cross reference; and (3) makes a technical correction.)**

Effective: July 1, 2009.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 546 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 14-8-2-77, AS AMENDED BY P.L.120-2008,
- 3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]: Sec. 77. "Division" has the following meaning:
- 5 (1) For purposes of IC 14-9-8, the meaning set forth in
- 6 IC 14-9-8-2.
- 7 (2) For purposes of IC 14-20-1 **and IC 14-20-16**, the meaning set
- 8 forth in IC 14-20-1-2.
- 9 (3) For purposes of IC 14-21, the division of historic preservation
- 10 and archeology.
- 11 (4) For purposes of IC 14-22, the division of fish and wildlife.
- 12 (5) For purposes of IC 14-24, the division of entomology and
- 13 plant pathology.
- 14 (6) For purposes of IC 14-25.5, the division of water.
- 15 (7) For purposes of IC 14-31-2, the meaning set forth in
- 16 IC 14-31-2-4.
- 17 (8) For purposes of IC 14-32, the division of soil conservation of
- 18 the Indiana state department of agriculture established by
- 19 IC 15-11-4-1.
- 20 (9) For purposes of IC 14-37, the division of oil and gas.
- 21 SECTION 2. IC 14-13-6-23, AS ADDED BY HEA 1032-2009,
- 22 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 23. (a) The Wabash River heritage corridor fund is established for the purpose of:

- (1) providing grants to aid the sustainable development of property under the Wabash River heritage corridor commission master plan and purposes of the commission; and
- (2) paying costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.

(b) The fund shall be administered by the director under the direction of the commission.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Interest as provided in subsection (e).
- (3) Funds deposited under ~~IC 14-38-1-13(c)~~: **IC 14-38-1-13(d)**.
- (4) Money donated to the fund.
- (5) Money transferred to the fund from other funds.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(g) Money in the fund is annually appropriated to the department of natural resources for its use in fulfilling the purposes of this section.

SECTION 3. IC 14-15-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. A person operating a boat shall observe the following traffic rules when applicable:

- (1) When two (2) boats are approaching each other "head and head", or nearly so, each boat shall bear to the right and pass the other boat on the boat's left side.
- (2) When two (2) boats are approaching each other obliquely or at right angles, the boat on the right has the right-of-way.

However, when:

- (A) one (1) boat is under sail or is nonmotorized, the sailboat or nonmotorized boat has the right-of-way; and**
- (B) two (2) boats are under sail or are nonmotorized, the boat on the right has the right-of-way.**

(3) A boat operated on a river or a channel shall bear to the right.

(4) A boat may overtake and pass another boat on either side if the passing can be done with safety and within the assured clear distance ahead, but the boat overtaken has the right-of-way.

(5) A boat leaving a dock, a pier, a wharf, or the shore has the right-of-way over all boats approaching the dock, pier, wharf, or shore.

SECTION 4. IC 14-15-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "intoxicated" means under the influence of:

1 (1) alcohol;
 2 (2) a controlled substance;
 3 (3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or
 4 a controlled substance; or
 5 (4) any combination of alcohol, controlled substances, or drugs;
 6 so that there is an impaired condition of thought and action and the loss
 7 of normal control of an individual's faculties. ~~to such an extent as to~~
 8 ~~endanger any person.~~

9 SECTION 5. IC 14-15-8-17 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a)** At a proceeding
 11 concerning an offense under this chapter, evidence of the ~~amount by~~
 12 ~~weight of~~ alcohol **concentration** that was in the blood ~~or breath~~ of the
 13 person charged with the offense;

14 **(1) at the time of the alleged violation; or**

15 **(2) within the time allowed for testing under section 12 of this**
 16 **chapter;**

17 as shown by an analysis of the person's ~~(1)~~ breath, ~~(2)~~ blood, ~~(3)~~ urine,
 18 or ~~(4)~~ other bodily substance is admissible.

19 **(b) If, in a prosecution for an offense under this chapter,**
 20 **evidence establishes that:**

21 **(1) a chemical test was performed on a test sample taken from**
 22 **the person charged with the offense within the period of time**
 23 **allowed for testing under section 12 of this chapter; and**

24 **(2) the person charged with the offense had an alcohol**
 25 **concentration equivalent to at least eight-hundredths (0.08)**
 26 **gram of alcohol per:**

27 **(A) one hundred (100) milliliters of the person's blood; or**

28 **(B) two hundred ten (210) liters of the person's breath;**

29 **the trier of fact shall presume that the person charged with the**
 30 **offense had an alcohol concentration equivalent to at least**
 31 **eight-hundredths (0.08) gram of alcohol per one hundred (100)**
 32 **milliliters of the person's blood or per two hundred ten (210) liters**
 33 **of the person's breath at the time the person operated the**
 34 **motorboat. However, this presumption is rebuttable.**

35 SECTION 6. IC 14-20-16 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2009]:

38 **Chapter 16. Governors' Portraits Collection**

39 **Sec. 1. (a) The governors' portraits collection is placed in the**
 40 **custody of the division. The collection shall be permanently**
 41 **displayed in public areas of the state house under the supervision**
 42 **of the division, which is charged with its care and maintenance.**

43 **(b) The director of the division shall inspect each painting in the**
 44 **collection annually in the company of one (1) or more experts in**
 45 **the field of art conservation selected by the director of the division.**

46 **(c) After the inauguration of each governor, the director of the**
 47 **division, with the concurrence of the governor, shall select and**
 48 **commission an artist to paint the governor's portrait. The portrait**
 49 **must be hung in the permanent collection immediately following**
 50 **the completion and acceptance of the portrait by the director of the**
 51 **division and the governor.**

(d) The division shall include in its budget requests the amount the division considers necessary to:

- (1) provide for the proper care, maintenance, and display of the governors' portraits collection; and
- (2) commission the painting of an oil portrait of each governor for the collection.

The division may use appropriated funds or any other funds provided for these purposes.

(e) The director of the division, in discharging the duties under this section, shall use the appropriate cultural and technical resources of the state, including the Indiana historical bureau and the Indiana department of administration.

Sec. 2. (a) The governors' portraits fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director of the division exclusively for the preservation and exhibition of the state owned portraits of former governors of Indiana.

(b) The proceeds from the sale of items as directed by law or by the director of the division, from gifts of money or the proceeds from the sale of gifts donated to the fund and from investment earnings from any portion of the fund, shall be deposited in the governors' portraits fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) All money accruing to the governors' portraits fund is continuously allotted and appropriated for the purposes specified in this section.

(e) Money in the fund at the end of the fiscal year does not revert to the state general fund.

SECTION 7. IC 14-22-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A person may not take or possess for any purpose, during the closed season, a migratory bird or the nest, eggs, or increase of a migratory bird without having

- (1) a permit or license issued by the director under this article. or
- (2) a permit issued by the authorized department of the United States government;

authorizing the permittee to take or possess for any purpose a migratory bird or the nest, eggs, or increase of a migratory bird during the closed season.

SECTION 8. IC 14-22-8-2, AS AMENDED BY P.L.66-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "game bird" means pheasant, quail, grouse, **mourning dove**, and wild turkey.

SECTION 9. IC 14-22-12-1, AS AMENDED BY P.L.66-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

- (1) A resident yearly license to fish, eight dollars and seventy-five

- 1 cents (\$8.75).
- 2 (2) A resident yearly license to hunt, eight dollars and
- 3 seventy-five cents (\$8.75).
- 4 (3) A resident yearly license to hunt and fish, thirteen dollars and
- 5 seventy-five cents (\$13.75).
- 6 (4) A resident yearly license to trap, eight dollars and seventy-five
- 7 cents (\$8.75).
- 8 (5) A nonresident yearly license to fish, twenty-four dollars and
- 9 seventy-five cents (\$24.75).
- 10 (6) A nonresident yearly license to hunt, sixty dollars and
- 11 seventy-five cents (\$60.75).
- 12 (7) A nonresident yearly license to trap, one hundred seventeen
- 13 dollars and seventy-five cents (\$117.75). However, a license may
- 14 not be issued to a resident of another state if that state does not
- 15 give reciprocity rights to Indiana residents similar to those
- 16 nonresident trapping privileges extended in Indiana.
- 17 (8) A resident or nonresident license to fish, including for trout
- 18 and salmon, for one (1) day only, four dollars and seventy-five
- 19 cents (\$4.75).
- 20 (9) A nonresident license to fish, excluding for trout and salmon,
- 21 for seven (7) days only, twelve dollars and seventy-five cents
- 22 (\$12.75).
- 23 (10) A nonresident license to hunt for five (5) consecutive days
- 24 only, twenty-five dollars and seventy-five cents (\$25.75).
- 25 (11) A resident or nonresident yearly stamp to fish for trout and
- 26 salmon, six dollars and seventy-five cents (\$6.75).
- 27 (12) A resident yearly license to take a deer with a shotgun,
- 28 muzzle loading gun, rifle, or handgun, thirteen dollars and
- 29 seventy-five cents (\$13.75).
- 30 (13) A resident yearly license to take a deer with a muzzle loading
- 31 gun, thirteen dollars and seventy-five cents (\$13.75).
- 32 (14) A resident yearly license to take a deer with a bow and
- 33 arrow, thirteen dollars and seventy-five cents (\$13.75).
- 34 (15) A nonresident yearly license to take a deer with a shotgun,
- 35 muzzle loading gun, rifle, or handgun, one hundred twenty dollars
- 36 and seventy-five cents (\$120.75).
- 37 (16) A nonresident yearly license to take a deer with a muzzle
- 38 loading gun, one hundred twenty dollars and seventy-five cents
- 39 (\$120.75).
- 40 (17) A nonresident yearly license to take a deer with a bow and
- 41 arrow, one hundred twenty dollars and seventy-five cents
- 42 (\$120.75).
- 43 (18) A resident license to take an extra deer by a means, in a
- 44 location, and under conditions established by rule adopted by the
- 45 department under IC 4-22-2, five dollars (\$5).
- 46 (19) A nonresident license to take an extra deer by a means, in a
- 47 location, and under conditions established by rule adopted by the
- 48 department under IC 4-22-2, ten dollars (\$10).
- 49 (20) A resident yearly license to take a turkey, fourteen dollars
- 50 and seventy-five cents (\$14.75).
- 51 (21) A nonresident yearly license to take a turkey, one hundred

1 fourteen dollars and seventy-five cents (\$114.75). However, if the
2 state of residence of the nonresident applicant requires that before
3 a resident of Indiana may take turkey in that state the resident of
4 Indiana must also purchase another license in addition to a
5 nonresident license to take turkey, the applicant must also
6 purchase a nonresident yearly license to hunt under this section.
7 (22) A resident license to take an extra turkey by a means, in a
8 location, and under conditions established by rule adopted by the
9 department under IC 4-22-2, fourteen dollars and seventy-five
10 cents (\$14.75).

11 (23) A nonresident license to take an extra turkey by a means, in
12 a location, and under conditions established by rule adopted by
13 the department under IC 4-22-2, one hundred fourteen dollars and
14 seventy-five cents (\$114.75). However, if the state of residence of
15 the nonresident applicant requires that before a resident of
16 Indiana may take a turkey in that state the resident of Indiana
17 must also purchase another license in addition to a nonresident
18 license to take a turkey, the applicant must also purchase a
19 nonresident yearly license to hunt under this section.

20 (24) A resident youth yearly consolidated license to hunt and fish,
21 six dollars (\$6). This license is subject to the following:

22 (A) An applicant must be less than eighteen (18) years of age.

23 (B) The license is in lieu of the resident yearly license to hunt
24 and fish and all other yearly licenses, stamps, or permits to
25 hunt and fish for a specific species or by a specific means.

26 **(25) A nonresident youth yearly license to hunt, seventeen**
27 **dollars (\$17). The applicant must be less than eighteen (18)**
28 **years of age.**

29 **(26) A nonresident youth yearly license to trap, seventeen**
30 **dollars (\$17). The applicant must be less than eighteen (18)**
31 **years of age.**

32 **(27) A nonresident youth yearly license to take a turkey,**
33 **twenty-five dollars (\$25). The applicant must be less than**
34 **eighteen (18) years of age. However, if the state of residence**
35 **of the nonresident applicant requires that before a resident of**
36 **Indiana may take a turkey in that state the resident of Indiana**
37 **must also purchase another license in addition to a**
38 **nonresident license to take a turkey, the applicant must also**
39 **purchase a nonresident youth yearly license to hunt under this**
40 **section.**

41 **(28) A nonresident youth license to take an extra turkey by a**
42 **means, in a location, and under conditions established by rule**
43 **adopted by the department under IC 4-22-2, twenty-five**
44 **dollars (\$25). The applicant must be less than eighteen (18)**
45 **years of age. However, if the state of residence of the**
46 **nonresident applicant requires that before a resident of**
47 **Indiana may take a turkey in that state the resident of Indiana**
48 **must also purchase another license in addition to a**
49 **nonresident license to take a turkey, the applicant must also**
50 **purchase a nonresident youth yearly license to hunt under this**
51 **section.**

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

~~(25)~~ (33) A resident senior yearly license to fish, three dollars (\$3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

~~(26)~~ (34) A resident senior "fish for life" license, seventeen dollars (\$17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars (\$3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

SECTION 10. IC 14-22-34-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. The costs of the programs established under this chapter may not be paid with money dedicated to fish and game purposes. **However, transfers may be made from money dedicated for fish and game purposes to the nongame fund established under section 20 of this chapter.**

SECTION 11. IC 14-24-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division shall issue a certificate following an inspection that discloses that the nursery stock is apparently free from pests and pathogens.

(b) The certificate shall be prepared on a commission form and must state the following:

1 (1) That the nursery stock has been inspected by the division.

2 (2) That to the best knowledge and belief of the nurseryman, the
3 nursery stock is free from pests and pathogens.

4 (c) A copy of the certificate must be attached to each package of
5 nursery stock before shipment of the stock by a nurseryman.

6 (d) A certificate issued under this section expires September 30
7 following the date of issuance.

8 **(e) The division shall communicate to nurserymen that methyl**
9 **bromide soil fumigation is preferred to produce pest and disease**
10 **free forest seedlings. Fumigation with methyl bromide of seedling**
11 **beds before seeding is an official control treatment to assure pest**
12 **free nursery stock.**

13 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE
14 JULY 1, 2009]: IC 4-23-7.2-8; IC 4-23-7.2-9.

15 SECTION 13. [EFFECTIVE JULY 1, 2009] **(a) Any money**
16 **remaining on June 30, 2009, in the governors' portraits fund under**
17 **IC 4-23-7.2-9, as repealed by this act, is transferred on July 1,**
18 **2009, to the governors' portraits fund established by IC 14-20-16-2,**
19 **as added by this act.**

20 **(b) This SECTION expires July 2, 2009.**

(Reference is to ESB 546 as reprinted March 31, 2009.)

Conference Committee Report
on
Engrossed Senate Bill 546

Signed by:

Senator Mishler
Chairperson

Representative Bischoff

Senator Lewis

Representative Cherry

Senate Conferees

House Conferees